

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Crl.MC.No. 4374 of 2014 ()

CC 615/2013 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT,
ERATTUPETTA

PETITIONER/ACCUSED:

DEEPAK, AGED 44 YEARS,
S/O.ENAS A.E., ANAKKALLUMKAL HOUSE, KADANADU VILLAGE,
KURUMANNU P.O., MEENACHIL TALUK, KOTTAYAM-686651.

BY ADV. SRI.P.T.JOSE

RESPONDENT/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY SHO, MELUKAVU POLICE STATION,
KOTTAYAM THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THOMAS, AGED 65 YEARS,
S/O.DEVASYA, KAVUNGAL HOUSE, KAYYOOR KARA,
BHARANANGANAM P.O., PALA, KOTTAYAM-686578.

3. SIBI JOSE, AGED 41 YEARS
S/O.JOSE, ARAYKKAKADALIYIL HOUSE, KADANADU VILLAGE,
KURUMANNU P.O., MEENACHIL TALUK, KOTTAYAM-686651.

4. NALINI RAVEENDRAN, AGED 51 YEARS,
W/O.RAVEENDRAN, MAROTTIKKAL HOUSE, KAYYOOR KARA,
RANDUMAAVU, BHARANANGANAM PO, PALA,
KOTTAYAM-686578.

5. SUDHAKARAN,
S/O.KUNJAPPAN, MAROTTIKKAL HOUSE, KAYYOOR KARA,
NAADUKANI, BHARANANGANAM PO, PALA
KOTTAYAM-686578.

R1 BY PUBLIC PROSECUTOR SMT.SAREENA
R2 TO R5 BY ADV. SRI.K.G.GOPAKUMAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4374 of 2014 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1: COPY OF THE CHARGE SHEET IN CC 615/2013 PENDING
BEFORE JFCM COURT ERATTUPETTA.

ANNEXURE-A2: COPY OF THE ORDER PASSED BY THE JFCM COURT,
ERATTUPETTA IN CMP 2324/2013 IN CRIME 225/2013 OF MELUKAVU
POLICE STATION DATED 02/07/2013 IN FAVOUR OF ONE
AUGUSTINE T JOSE.

ANNEXURE-A3: COPY OF MEMO ISSUED FROM JFCM COURT ERATTUPETTA
DATED 17/07/2013 IN FAVOUR OF THE 5TH RESPONDENT NAMELY CW6 IN
ANNEXURE A1 CHARGE.

RESPONDENTS' ANNEXURES:

NIL

// True Copy //

P.A. To Judge

DSV/21/10/15

B.KEMAL PASHA, J.

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Crl.M.C. No. 4374 of 2014

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Dated this the 15th day of October, 2015

ORDER

The petitioner stands indicted for the offences punishable under Sections 3(2)(F) and 7 of the Essential Commodities Act, 1955 and Section 2(1)(2) and Section 23 of the Petroleum Act, 1934 and Section 3(2)(3) and Section 4 of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000.

2. It seems that the charges under the Essential Commodities Act are also as a consequence of the charges levelled against the petitioner under the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000. As per Clause 13(1) of the said order, the power of search and seizure shall be exercised by any officer of the Central or the State Government not below the rank of Inspector duly authorised by a general or a special Order, by the Central Government or the

State Government, as the case may be or any officer of a Government oil company not below the rank of Sales Officer, authorised by the Central Government. Here, the search and seizure was conducted by the Sub Inspector of Police, Melukavu Police Station. Matters being so, the said officer was not an authorised officer within the meaning of Clause 13(1) to conduct the search and seizure. Matters being so, the prosecution is bad in law and therefore, the entire proceedings against the petitioner in C.C.No.615 of 2013 on the basis of Annexure A1 are liable to be quashed.

In the result, this Crl.M.C. is allowed and all the proceedings against the petitioner in C.C.No.615 of 2013 on the basis of Annexure A1 are hereby quashed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/15/10/15

// True Copy //

P.A. To Judge